

ENTERED

July 13, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHRISTOPHER LORENZO PEREZ,
(TDCJ-CID #2055618)
Plaintiff,

vs.

HALE COUNTY JAIL, *et al.*,
Defendants.

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CIVIL ACTION H-18-2373

MEMORANDUM ON DISMISSAL

Christopher Lorenzo Perez, a Texas Department of Criminal Justice inmate, sued in July 2018, alleging civil rights violations resulting from a denial of due process, the use of excessive force, and the failure to protect his safety. Perez, proceeding pro se and in forma pauperis, sues the Hale County Jail; Lieutenant Roberts; Norman Blake; Captain Curry; Lieutenant Villanueva; Sergeant Vider; Sergeant Amadu; and Eastham Unit.

The threshold issue is whether Perez's claims should be dismissed as barred by the three-strikes provision of 28 U.S.C. § 1915(g).

I. Plaintiff's Allegations

Perez states that he is an MHMRA inmate and needs help. Perez states that he was arrested on September 27, 2015. At that time, he was allegedly tased twenty times. He further claims that he fell at the Eastham Unit and sustained multiple fractures. Perez mentions a disciplinary case relating to an extra blanket in a very cold cell. He also mentions that his medical restrictions prevent him from being assigned to the top bunk. Perez mentions events at the Eastham, Middleton, and Byrd Units. Perez seeks an investigation by the Federal Bureau of Investigation.

II. Analysis

A prisoner is not allowed to bring a civil action in forma pauperis in federal court if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

Perez's litigation history reveals that he has previously submitted abusive and scurrilous filings in federal court. Prior to filing this action, he had at least three suits dismissed as frivolous. *Perez v. Mull*, 5:17-0232 (dismissed as frivolous and malicious on March 26, 2018)(N.D. Tex.); *Perez v. Tucker*, 5:18-0018 (dismissed as frivolous on March 7, 2018)(N.D. Tex.); and *Perez v. Mejoraldo*, 5:17-0148 (dismissed as frivolous on August 24, 2017)(N.D. Tex.).

In the present case, Perez has not alleged, nor does his complaint demonstrate, that he is in imminent danger of serious physical injury. Accordingly, Perez is barred under 28 U.S.C. § 1915(g) from proceeding in forma pauperis in this action.

III. Conclusion

Perez's motion to proceed as a pauper, (Docket Entry No. 2), is DENIED. The complaint filed by Christopher Lorenzo Perez (TDCJ-CID #2055618) is DISMISSED under 28 U.S.C. § 1915(g).¹ All pending motions are DENIED. Perez is warned that continued frivolous filings may result in the imposition of sanctions.

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In *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1998), the Fifth Circuit barred an inmate from proceeding further under the statute, except for cases involving an imminent danger of serious physical injury, and dismissed all of Adepegba's i.f.p. appeals pending in that court. The Fifth Circuit noted that the inmate could resume any claims dismissed under section 1915(g), if he decided to pursue them, under the fee provisions of 28 U.S.C. §§ 1911-14 applicable to everyone else.

The Clerk will provide a copy of this order by regular mail, facsimile transmission, or e-mail to:

(1) the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas 78711, Fax: 512-936-2159;

(2) the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793; and

(3) the Manager of the Three-Strikes List for the Southern District of Texas at: Three_Strikes@txs.uscourts.gov.

SIGNED at Houston, Texas, on July 13, 2018.

A handwritten signature in black ink, appearing to read "Vanessa D. Gilmore", written over a horizontal line.

VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE